

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 23-6 GW (MRW) CV 23-8 GW (MRW)	Date	January 31, 2023
Title	Espinosa v. SSA		

Present:	Hon. Michael R. Wilner, U.S. Magistrate Judge		
	James Muñoz		n/a
	Deputy Clerk		Court Reporter / Recorder
Attorneys for Plaintiff:	Attorneys for Defendant:		
n/a			n/a

Proceedings: ORDER TO SHOW CAUSE RE: DISMISSAL

1. Plaintiff Espinosa filed two civil actions in this federal district court regarding his failure to obtain Social Security disability benefits. The first case, docketed under case number CV 23-6 GW (MRW) (C.D. Cal.), appears to be a standard pro se appeal from the agency's adverse decision. The Court (Magistrate Judge Wilner) previously issued an order instructing the parties regarding the procedures to follow in the disability benefits appeal action (CV 23-6).

2. The second case (filed the same day), docketed under case number CV 23-8 GW (MRW) (C.D. Cal.), confusingly appears to allege a tort claim against the United States. Plaintiff contends that he is entitled to \$5,000,000 in punitive damages due to alleged misconduct by the Social Security Administration. (CV 23-8 at Docket # 1, page 5.)

3. Causing even more confusion, the government filed a notice of appearance and magistrate judge consent forms in the second case, but has not appeared in the traditional disability action.

4. The Court has no hesitation to allow the first action (CV 23-6) to proceed. However, pursuant to 28 U.S.C. § 1915(e), Plaintiff is ordered to show cause why the second action (CV 23-8) should not be summarily dismissed for failure to state a claim. That action facially does not identify a statute or facts that plausibly could lead to such a recovery. Further, the government will undoubtedly be entitled to consideration of sovereign immunity based on the allegations in the action.

5. Plaintiff will respond to this OSC by February 15 by either: (a) explaining in writing (not to exceed five pages) his legal argument as to why the second tort case states a legitimate cause of action upon which he can obtain relief; or (b) voluntarily dismissing the second case without further consequence to Mr. Espinosa.

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6. Government counsel is directed to review the dockets in both actions and consider whether to file a notice of appearance in the first case.